

Attorney Docket No.: **WSTR-0014C**
Inventors: **Shiekhattar, Ramin**
Serial No.: **10/634,574**
Filing Date: **August 5, 2003**
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REMARKS

Claims 1-17 are pending in this application. No new matter has been added. Applicant is respectfully requesting reconsideration of the restriction requirement in view of the following remarks.

The claims of the present application have been subjected to a Restriction Requirement under 35 U.S.C. §121 by the Examiner in this case. The Examiner suggests that restriction of the present invention into the following groups is required:

Group I, claims 1-6 (pertaining to agents that interact with nucleic acid sequences), drawn to methods of modulating the activity of at least one component of a BRCA1-BRCA2-containing complex;

Group II, claims 1-6 (pertaining to agents that interact with a protein), drawn to methods of modulating the activity of at least one component of a BRCA1-BRCA2-containing complex;

Group III, claims 7-9, drawn to agents;

Group IV, claim 10-12, drawn to a method for treating cancer comprising using an agent of claims 4, 5, or 6;

Group V, claim 13, drawn to a method for identifying an agent that inhibits the expression of BRCC36 or BRE protein;

Group VI, claim 14, drawn to an agent;

Group VII, claim 15, drawn to a method for treating cancer comprising using an agent of claim 14;

Group VIII, claim 16, drawn to an antibody that recognizes BRCC36 or BRE protein;

Group IX, claim 17 (pertaining to levels of nucleic acids detected), drawn to a method for diagnosing cancer; and

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Group X, claim 17 (pertaining to levels of protein detected), drawn to a method for diagnosing cancer.

The Examiner suggests that the inventions listed as Groups I-X are distinct. In particular, while it is acknowledged that Groups I and II are directed to related processes, the methods are suggested to be mutually exclusive as Group I requires the use of nucleic acids and Group II requires the use of proteins. It is further suggested that Groups I and IV, V, VII, IX and X are unrelated as they are drawn to different processes that have different designs and different modes of operation. It is likewise suggested the Group II and IV, V, VII, IX and X are unrelated as they are drawn to different processes that have different designs and different modes of operation. The Examiner suggests that Groups III and VI are unrelated because the agents of Group III modulate the activity of either the nucleic acid or protein product of a BRCA1-BRCA2 complex, whereas the agents of Group IV inhibit the expression of BRCC36 or BRE protein. It is acknowledged that Groups III and IV, and Groups VI and VII are related as product and process of use; however these groups are suggested to be distinct because there are multiple methods for treating cancer that rely on materially different products. Likewise, the Examiner acknowledges that Groups VIII and X are related as product and process of use; however the antibody of Group VIII can be used in a different process such as isolating or purifying a BRCC36 or BRE protein. Applicant is required to elect one of the Groups to be examined. Applicant respectfully disagrees and traverses this restriction requirement.

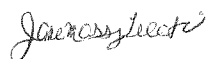
In particular, Applicant respectfully believes that the search and Examination of the claims of Group I are coextensive

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with a search of claim 13 (Group V). Claim 1 of Group I relates to the use of agents which interact with nucleic acid sequences encoding BRCC36 or BRE for modulating the activity of at least one component of a BRCC. Claim 13 pertains to a method for identifying such agents. Applicant respectfully believes that a search of the relevant prior art for methods of using BRCC36 and BRE as targets would reveal art related to the subject matter of claim 13. Therefore, no additional burden would be incurred by the Examiner in this case by searching and examining together the subject matter of Groups I and V. Accordingly, reconsideration of this Restriction Requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicant hereby elects to prosecute Group I, claims 1-6 (pertaining to agents that interact with nucleic acid sequences), drawn to methods of modulating the activity of at least one component of a BRCA1-BRCA2-containing complex, classified in class 514, subclass 44, with traverse.

Respectfully submitted,



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